

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

FREDDIE HOUSTON,	:	
	:	
Petitioner,	:	
	:	
v.	:	7:07-CV-131 (WLS)
	:	
WILLIAM TERRY, Warden	:	
	:	
Respondent..	:	
_____	:	

ORDER

Before the Court is a Recommendation from United States Magistrate Judge G. Mallon Faircloth (Doc. No. 18), filed May 22, 2007. It is recommended that Respondent's motion to dismiss (Doc. No. 10) be granted as Petitioner's petition for relief is untimely. Petitioner has filed a timely objection. (Doc. No. 21).

Petitioner admits that he has no legal reason to oppose or object to the recommendation. As part of that admission, Petitioner asserts that he has no access to legal materials at the facility in which he is currently housed. Petitioner's also asserts that the merits of his claim, if explored would reveal that he is actually innocent of the crime which he was convicted.

Petitioner's assertion, notwithstanding, the lack of access to legal materials at this stage is not a valid objection to the recommendation. The law has been clear for a number of years that a § 2254 petitioner must be filed in compliance with the one-year statute of limitations of the AEDPA. Kaufman v. U.S., 282 F.3d 1336 (11th Cir. 2002). Likewise, Petitioner's assertion of innocence does not negate the filing requirements. Accordingly, Petitioner's objection (Doc. No. 21) is **OVERRULED**.

Upon full consideration of the record, the Court finds that said Recommendation (Doc. No. 18) should be, and hereby is, **ACCEPTED, ADOPTED** and made the order of this Court for reason of the findings and reasons set out therein, along with the findings, reasons and conclusions set out herein. Therefore, Respondent's motion to dismiss (Doc. No. 10) is **GRANTED.**

SO ORDERED, this 5th day of October, 2007.

/s/W. Louis Sands
W. Louis Sands, Judge
United States District Court